

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EUGENE ALEXANDER DEY,

Petitioner,

No. CIV S-03-0883 LKK KJM P

vs.

M. YARBOROUGH,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's February 15, 2008 denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate of appealability must “indicate which specific issue or issues satisfy” the requirement or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).


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1 For the reasons set forth in the magistrate judge's September 28, 2007 findings
2 and recommendations, petitioner has not made a substantial showing of the denial of a
3 constitutional right. Accordingly, a certificate of appealability should not issue in this action.

4 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is
5 denied.

6 DATED: April 23, 2008.

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9 LAWRENCE K. KARLTON
10 SENIOR JUDGE
11 UNITED STATES DISTRICT COURT
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